

Remarks

Claims 39-60 are pending. Claims 39-60 are rejected.

Amendments to the Claims

Both instances of claims 45 have been canceled without prejudice or disclaimer.

Newly added claims 61-62 present the subject matter previously presented in both instances of claim 45.

No new matter is added.

Claim Rejections – 35 U.S.C. § 102(b)

The Examiner has rejected claims 39, 44, 47, 52-54, 57 and 60 under 35 U.S.C. § 102(b) as being anticipated by Tatchell, et al. (U.S. Pat. 6,160,877), herein Tatchell. The Applicant includes the following comments to clearly distinguish the claimed invention over the art cited by the Examiner, and respectfully requests a favorable reconsideration of claims 39, 44, 47, 52-54, 57 and 60.

For a claim to be anticipated, each and every non-inherent limitation must be disclosed in a single reference, in accordance with MPEP Section 2131.

Regarding claim 39, which recites:

“A method comprising:

“receiving an incoming call from a calling phone directed to a mobile handset;

“**determining an active profile from among a plurality of profiles** based at least in part on a network determined cell location of the mobile handset, where a profile comprises at least one filter and where at least one of the plurality of profiles is a user-specified profile that is set up by the user;

“determining whether the calling phone satisfies the at least one filter of the active profile; and

“in response to the determination whether the calling phone satisfies the at least one filter, handling the incoming call in accordance with an action specified by the active profile” (emphasis added).

The Examiner asserts that Tatchell teaches:

“**determining an active profile from among a plurality of profiles** based at least in part on a network determined cell location of the mobile handset (see fig. 8c and col. 20 lines 21-34, col. 4 lines 22-26, col. 7 lines 1-9,

col. 9 lines 64-col. 10 line 5. Tatchell teaches locations are applied and modified based on location. For example, if the user has moved from his house to his office, the system of **Tatchell modifies/changes the profile** from "home" to "office". Thus, the "office" profile is applied instead of the "home" profile" (emphasis added).

Consider the disclosure of Tatchell:

"The subscriber can also permit the Personal Agent to intercept incoming calls by selecting, say, the home telephone number as the main Personal Agent access number and **directing all callers to use that number**. Any calls directed to the home telephone number would then be intercepted by the Personal Agent. The subscriber can also **tailor his or her Personal Agent profile** so that the agent intercepts call directed to only one network address.

"Referring now to FIG. 2b, we have shown a call scenario wherein a call to a subscriber is intercepted by the Personal Agent. In the scenario of FIG. 2b, a calling party 24 is trying to reach the subscriber at the office location 25 by dialing the subscriber's office DN 746-2010. The **subscriber has modified the profile** to intercept all calls to his office DN and route calls from predetermined calling parties directly to the subscriber's home telephone number, i.e. DN 829-5623" (col. 9, line 56 – col. 10, line 4, emphasis added).

"Yet another call management feature is the "call forward" option. The call forward option **allows the subscriber to direct incoming calls to their current location**. In order to permit this, the subscriber informs the agent as to their current whereabouts. This may automatically be done each time the subscriber contacts the Personal Agent from any location. The subscriber may identify one of the principal subscriber numbers by name, for example, "home", "work", "cellular". In the case of remote locations, the subscriber would identify the remote location by name, for example, by saying "here" or by saying a name in the contact database or by entering the telephone number through DTMF entries. If call forwarding is requested to areas requiring toll charges, a password may be requested" (col. 20, lines 21-34, emphasis added).

As described, Tatchell teaches modifying "the profile" (e.g., "his or her Personal Agent profile") and provide a "'call forwarding" option". There is no disclosure or suggestion that a single profile is selected from a "plurality of profiles based at least in part on a network determined cell location of the mobile handset". Rather, Tatchell teaches a single profile, the "Personal Agent" which may update a "'call forwarding" option" based on the "location" from which the user "contacts the Personal Agent". As a consequence, when the user moves to a new location, the "Personal Agent" would need to update the "'call forwarding" option".

Thus, Tatchell teaches modifying a “filter”. This does not disclose or suggest “determining an active profile **from among a plurality of profiles**” as in claim 39.

As Tatchell does not disclose all elements of claim 39, Tatchell does not anticipate claim 39. For at least this reason, claim 39 is in condition for allowance.

As claims 47 and 54 recite similar language to that discussed above with reference to claim 39, claims 47 and 54 are likewise in condition for allowance. As claims 44, 52-53, 57 and 60 depend upon claims 39, 47 and 54, they are likewise in condition for allowance.

The Examiner is respectfully requested to reconsider and remove the rejection under 35 U.S.C. 102(b) based on Tatchell, and to allow claims 39, 44, 47, 52-54, 57 and 60.

Claim Rejection - 35 U.S.C. 103(a)

The Examiner has rejected claims 40-43, 45, 48-51, 56 and 58-59 as being unpatentable under 35 U.S.C. 103(a) over Tatchell in view of Arbel, et al. (U.S. Patent No. 5,276,731), herein Arbel. The Applicant includes the following comments to clearly distinguish the claimed invention over the art cited by the Examiner, and respectfully requests a favorable reconsideration of claims 40-43, 45, 48-51, 56 and 58-59.

These rejections are respectfully disagreed with, and are traversed below.

It is well established law that in order for an obviousness rejection to be proper, the Patent Office must meet the burden of establishing a prima facie case for obviousness. Thus, as interpreted by the Courts, the Patent Office must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that in accordance with *In re Lee*, the prior art must contain a suggestion, teaching, or motivation for one of ordinary skill in the art to modify a reference or combine references; and that the proposed modification must

have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made¹.

As seen above, Tatchell does not disclose or suggest claims 39, 47 and 54. As claims 39, 47 and 54 are allowable over Tatchell then all claims that depend from claims 39, 47 and 54 should also be allowable over Tatchell, whether considered alone or in combination with other art cited as applied by the Examiner. Further, the addition of the disclosures of Arbel to Tatchell (without admitting that such combinations are suggested or technically feasible), would not cure the deficiencies in the disclosure of Tatchell. For at least this reason, claims 40-43, 45, 48-51, 56 and 58-59 are in condition for allowance.

In light of the discussion above, the Applicant respectfully asserts that a prima facie case for obviousness was not presented as required by the court in *In re Lee*. As such, the Applicant respectfully requests that the Examiner reconsider and withdraw these rejections to claims 40-43, 45, 48-51, 56 and 58-59.

Additionally, it is noted that the Examiner has not provided a basis for the rejections of claims 46 and 55. For at least this reason, claims 46 and 55 are in condition for allowance. If the Examiner feels otherwise, the Applicants respectfully request the Examiner provide a new Non-Final Office Action expressly detailing the basis for these rejections.

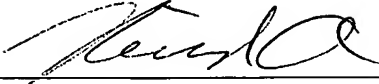
For the foregoing reasons, the Applicant believes that each and every issue raised by the Examiner has been adequately addressed and that this application is in a condition for allowance. As such, early and favorable action is respectfully solicited.

¹ *In Re Fine*, 5 U.S.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Agmen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996); *In Re Sang Su Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002).

S.N.: 10/607,107
Art Unit: 2614

871.0111.U1 (US)

Respectfully submitted:



Ricardo Ochoa

8/24/09

Date

Reg. No.: 61,545

Customer No.: 29,683

HARRINGTON & SMITH, PC
4 Research Drive
Shelton, CT 06484-6212

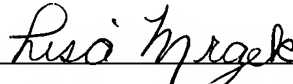
Telephone: (203) 925-9400
Facsimile: (203) 944-0245
Email: ROchoa@HSPatent.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450.

08/24/2009

Date



Name of Person Making Deposit